

## **The complaint**

Mrs C complains that Zopa Bank Limited trading as Zopa ("Zopa") is holding her liable for the debt on a loan which she says she neither applied for nor knew about.

## **What happened**

The background to this complaint is well known to both parties, so I won't repeat everything here. In brief summary, in October 2022 a loan was taken out with Zopa in Mrs C's name for £5,000. Mrs C subsequently got in touch with Zopa to let it know she hadn't applied for the loan. Zopa investigated things and ultimately couldn't reach agreement with Mrs C, so she referred her complaint about Zopa to us.

One of our Investigators looked into things and ultimately recommended that Mrs C's complaint should be upheld. Zopa didn't agree, so this case has been passed for an Ombudsman's decision as the parties were notified it would be.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've decided to uphold this complaint for materially the same reasons as our Investigator. I'll explain why.

In this case, my first consideration is: did Mrs C enter into this loan agreement, or was it done without her knowledge and consent as she alleges?

Having considered this carefully, I think it's most likely the loan was taken out in Mrs C's name without her knowledge and consent, and she therefore did not enter into the loan agreement. I say this because:

- Bank records show the loan funds were received into a Halifax account in the joint names of Mrs C and her husband, Mr C, on 13 October 2022, and then transferred on from there by Mr C to his sole Halifax account. In the normal way, with the loan funds paid to a husband's and wife's joint account, and then moved onto the husband's sole account, this might indicate they were both aware of the loan application and funds. However, I think there are exceptional circumstances in this case that persuade me Mrs C wasn't aware of either of these things.
- We've recently investigated and resolved a separate linked case here brought by Mr and Mrs C about their joint Halifax account into which the loan funds were paid. This separate case against Halifax did not result in any compensation being paid in respect of the loan funds. But during the case, Mr C made the exceptional admission that he had provided fake documents and a cover story to Mrs C to trick her into thinking the loan must have been taken out in her name by a third party, but that he had, in actual fact, taken the loan out in her name himself without her knowledge or

consent. I am satisfied from the information I've seen, like our Investigator, that this is what most likely happened.

- For the same reasons as our Investigator, I'm satisfied it's most likely that the selfie video and ID to take out the loan were provided to Zopa by Mr C in circumstances where he'd tricked Mrs C (so she was not aware these would be used by Mr C to take out this loan, which she knew nothing about).

Since I'm satisfied Mrs C most likely didn't apply for or agree to this loan, I don't think it would be fair for Zopa to hold her to the terms of the loan agreement she never saw or agreed to. So, Zopa shouldn't hold Mrs C liable for interest and charges, neither should there be a record of the loan on Mrs C's credit file – so if there currently is, this should be removed.

However, I'm also satisfied in this case that it wouldn't be fair for Zopa to pursue Mrs C for the outstanding loan funds. I say this because:

- As our Investigator explained, in 2019 Mr and Mrs C decided to replace their separate sole accounts with joint accounts as a contingency only, so the accounts were to be operated in everyday practical usage terms as if they were sole accounts. So, whilst the Halifax account into which the loan funds were paid was a joint account held by Mr and Mrs C, it didn't really operate like that, but instead in everyday practical usage terms as Mr C's sole account. Mrs C didn't use the account, for example in which to deposit her salary, nor did she have active mobile banking or a debit card for the account.
- Given what I've said above, and the fact I've seen no evidence persuading me otherwise, I think Mrs C was neither aware that the loan had been taken out (and in her name), nor that it had been paid into the "joint account" (and then moved on by Mr C) until she later discovered the loan application that ultimately led to this complaint. So, I'm satisfied I can't say Mrs C ought reasonably to have known about the funds or that they were from a loan in her name.
- Like our Investigator, based on the evidence I've seen, it seems to me that if Mrs C benefited from the loan proceeds, any benefit would have been inadvertent on her part. And I don't think the way in which Mr C appears to have spent the loan proceeds (that Mrs C wasn't aware of) resulted in anything tangible that I think it would be fair to say Mrs C is benefitting from nor that she could use to repay the loan now. In these circumstances, and given everything I've said above, I'm satisfied it wouldn't be fair for Zopa to pursue Mrs C for the outstanding loan funds.

Zopa has said that Mrs C hasn't provided any evidence the police are involved, and so it wouldn't be looking to write off the loan as per the Investigator's recommendation. However, I have seen, on another linked case we've investigated at our service, an Action Fraud report about Mrs C not having taken out this loan. In any event, I'm required to reach an outcome that I'm satisfied is fair and reasonable in all the circumstances, and for the reasons I've explained, I'm satisfied Zopa should be required to write off the loan.

I've also thought about the monthly repayments that appear to have been made to the loan from November 2022 to January 2023. However, these were paid to Zopa from the "joint account", which as I've said was effectively being used as Mr C's sole account. So I don't think Zopa needs to refund these to Mrs C.

### **My final decision**

For the reasons explained, I uphold this complaint and I direct Zopa Bank Limited trading as Zopa to:

- write off the loan and not pursue Mrs C for any repayment of the loan; and
- amend Mrs C's credit file removing any information about the loan and searches.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 12 October 2023.

Neil Bridge  
**Ombudsman**